



Neil L. Postrygacz

December 9, 2021

VIA ECF

The Honorable Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, NY 10007

***Re: SingularDTV GmbH v. LeBeau, et al
1: 21-cv-10130***

Dear Judge Caproni,

On behalf of Defendants Zachary LeBeau and Kimberly Jackson undersigned counsel writes this letter in further response to Plaintiff's request for taking their witnesses testimony remotely.

In their December 8th letter, Plaintiff states Defendants did not provide any reason why live testimony of their witnesses would be superior to videoconference testimony. In addition to the reasons provided by Defendant for why live testimony is preferred, this district in late 2020 recognized the preference for live testimony over remote testimony. Although Federal Rules of Civil Procedure Rule 43 allows for remote testimony, the very language of this rule makes it clear that it is less preferred. E. Profit Corp. Ltd. v. Strategic Vision US LLC, 18-CV-2185 (LJL), 2020 WL 6048158, at *3 (S.D.N.Y. Oct. 13, 2020)

This is confirmed by the Supplementary Notes on Advisory Committee regarding this rule, which states:

The importance of presenting live testimony in court cannot be forgotten. The very ceremony of trial and the presence of the factfinder may exert a powerful force for truth-telling. Fed. R. Civ. P. 43



There are numerous other cases finding the same preference for live testimony that can be addressed in an opposition if this Court deems it necessary for the parties to brief this issue.

Respectfully submitted,

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